

**From:** bryanrbaker  
**To:** Microsoft ATR  
**Date:** 1/24/02 12:40am  
**Subject:** Microsoft Settlement

I am NOT in favor of the proposed settlement in the Microsoft Anti-trust case.

Firstly, when in the history of jurisprudence has society allowed criminals to set the terms of their own punishment? The settlement proposed by the DOJ does not substantively differ from the settlement that Microsoft proposed. They have been found guilty. Why then are they allowed to set the terms of their punishment?

Secondly the States dissenting from the DOJ make many cogent arguments in their proposal. Overall it seems to have much more emphasis on the spirit and intentions of anti-trust laws as they exist. This focus is on the protection of the consuming public and the promotion of fair competition.

I would like to pay particular attention to section L of the States proposal, in which the States pay attention to a particularly nasty method that Microsoft has been developing to deal with the threat of technology that is not linked to companies that can be bought or forced out of business. Microsoft adopts standards, then proceeds to "extend" them at will until the Microsoft version is incompatible with the open standard, which they use as leverage to keep consumers locked into a "Windows Only" environment. This is one of their most disastrous strategies for consumers and competition.

== Quoted from the States Proposal ==

L. Adherence to Industry Standards

A common tactic in Microsoft's unlawful monopoly maintenance was the limitation on interoperability with potential competitors. This has been accomplished, on occasion, by co-opting and/or undermining the industry standards

for software developers. Microsoft also purposely deceived software developers into

believing that the Microsoft Java programming tools had cross-platform capability

with Sun-based Java:

16. Adherence to Industry Standards.

a. Compliance With Standards. If Microsoft publicly claims that any of its products are compliant with any technical standard (3Standard<sup>2</sup>) that has been approved by, or has been submitted to and is under consideration by, any organization or group that sets standards (a 3Standard-Setting Body<sup>2</sup>), it shall comply with that Standard. If Microsoft chooses to extend or modify

the implementation of that Standard, Microsoft shall continue fully to implement the Standard (as that Standard may be modified from time to time by the Standard-Setting Body). Microsoft shall continue to implement

the Standard until: (i) Microsoft publicly disclaims that it implements that Standard; or (ii) the Standard expires or is rescinded by the standard-setting body. However, Microsoft shall not be permitted to require third parties to use or adopt Microsoft's version of the Standard. To the extent Microsoft develops a proprietary version of a Standard, Microsoft's Operating Systems must continue to support non-proprietary, industry versions of such Standard.

b. Compliance With De Facto Standards. As to any Standard with which Microsoft is required to comply under the preceding paragraph, to the extent that industry custom and practice recognizes compliance with the Standard to include variations from the formal definition of that Standard (a De Facto Standard<sup>2</sup>), Microsoft may discharge its obligations under this provision by complying with the de facto Standard provided that: (i) before doing so, Microsoft notifies Plaintiffs and the Special Master in writing of its intention to do so, and describes with reasonable particularity the variations included in the De Facto Standard; and (ii) Plaintiffs do not, within 30 days of receipt of such notice, object to Microsoft's intention to comply with the De Facto Standard.

== end quote ==

Please think carefully before unleashing a brazen and emboldened (since there is no punishment here) Microsoft on the citizens of this country. That is what will happen if Microsoft is allowed to get off with their own definition of a punishment.

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Bryan Baker

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//\ ASCII Ribbon Campaign | Remember -  
\\ / No HTML/RTF in email | You can't get a virus from ASCII!  
XX\ No Word docs in email | No one ever said "I can't read that  
//\ Respect open standards | ASCII email you sent."